

RESOLUTION ON STUDENT GRIEVANCE PROCEDURES  
(#15-95/96-SA)

- WHEREAS, In the Spring of 1995 the Humboldt State University Academic Senate approved a policy titled "Grievance Procedures for Students Filing Complaints Against Faculty, Staff or Administrators" to be implemented Fall 1995; and
- WHEREAS, In implementing said policy a number of contradictions and ambiguities with the process outlined therein have become apparent; and
- WHEREAS, Such contradictions and ambiguities can be rectified by making a number of amendments and revisions to the policy; therefore, be it
- RESOLVED: That the Academic Senate of Humboldt State University recommends the approval of the amendments and revisions contained in the attached "Grievance Procedures for Students Filing Complaints Against Faculty, Staff or Administrators" [see attachment]; and be it further
- RESOLVED: That the Academic Senate of Humboldt State University recommends that this revised policy be communicated to the President and be adopted as soon as possible; and be it further
- RESOLVED: That the Academic Senate of Humboldt State University recommends that all faculty and staff be provided with a copy of this revised policy.

DRAFT 5/6/96 - Reflects Senate's Corrections and/or Proposed Changes

**UNIVERSITY MANAGEMENT LETTER 95-09**  
**(Issued Concurrently as UML 95-09 and as Appendix R of the Faculty Handbook)**  
**AUGUST 1995**

**GRIEVANCE PROCEDURES FOR STUDENTS FILING COMPLAINTS AGAINST  
FACULTY, STAFF OR ADMINISTRATORS**

**INTRODUCTION**

Humboldt State University strives to assure that fair treatment is maintained during the resolution of disputes. Thus, HSU is committed to impartial examination of the facts, prompt decisions, and appeal processes for review, in accordance with established and published procedures.

The HSU community recognizes that disputes may arise out of decisions or actions that are alleged to be arbitrary, capricious, or contrary to accepted procedures. In most cases, these disputes are handled informally through normal academic or administrative channels, where the student discusses his or her concern directly with the individual(s) involved. The student is encouraged to discuss the matter with one of the following: the University Ombudsperson, the Student Grievance Coordinator, a representative from the Office of the Vice President for Student Affairs, or a representative from the Office of the Dean for Undergraduate Studies for clarification of further steps in this procedure and for advice on possible means for resolving the problem without the need for pursuing the steps indicated in this procedure. For those few instances when informal resolution has not been possible, HSU has adopted the Student Grievance Procedure, which permits timely review and an impartial evaluation of the complaint.

The purpose of the Student Grievance Procedure is to provide a means through which the allegedly harmful effects of University decisions or actions on the student(s) may be investigated and resolved. This procedure is not a disciplinary process. Other mechanisms are in place for disciplinary actions. (Please refer to appropriate Memorandums of Understanding and other pertinent documents.)

***Confidentiality of the grievance process:*** Any information pertaining to the grievance process is considered confidential and is governed by those laws protecting confidentiality. The disclosure, release, transfer, dissemination or other communication to unauthorized persons by those members of the campus who are acting on behalf of the University in the grievance process is a violation of state and federal law and is subject to disciplinary action. Federal Law (29 CFR 1602) requires that a record of all grievances be retained by the University for a minimum of three (3) years. A confidential record will be retained only in the Student Grievance Coordinator's office. This record will not be included in any person's personnel file or student record.

***Intimidation, threat of retaliation and retaliatory behavior:*** Any student has the right to seek redress under these procedures, cooperate in an investigation or otherwise participate in these procedures without fear of intimidation, threat of retaliation or retaliatory behavior. Any behavior, verbal or written, considered to be intimidation, threat of retaliation or retaliatory behavior in response to one's participation in this grievance procedure is prohibited and may be regarded as the basis for disciplinary action.

***Frivolous Claims/Abuse of Process/Malicious Complaints:*** A student must proceed with a complaint in good faith. Frivolous claims, abuse of process and/or malicious complaints may be grounds for disciplinary action.

SECRET

## JURISDICTION OF STUDENT GRIEVANCE PROCEDURE

The Student Grievance procedure is utilized in those cases where a student has a grievance against a faculty member(s), a staff member(s) and/or an administrator(s). There are several classifications of University business where decisions are made and actions take place that affect students. As a result, there are three (3) tribunals which exist to respond to student grievances under this procedure.

The subject matter of the grievance determines which tribunal is used in responding to a student grievance.

Academic Student Grievance Tribunal responds to matters related to *academic issues*.

Appropriate Administrator, in consultation with the Affirmative Action Officer, responds to matters of *discrimination*.

Non-Academic/Non-Discrimination Student Grievance Tribunal responds to matters of *misconduct and other issues* not related to academics or discrimination.

*See DEFINITIONS section of this document for further clarification of subject matter reviewed by the different tribunals.*

When the grievance is against an administrator who reports directly to the President, the President shall appoint a designee to investigate the allegations and provide a recommendation. If the grievance is against a Dean or Director, the President shall appoint an administrator as an ad hoc member of the appropriate tribunal.

**MATTERS NOT COVERED** by the Student Grievance Procedure include:

Issues of licensure, certification, credential and accreditation (reviewed by applicable discipline).

Issues of student employment other than allegations of discrimination (reviewed by Appropriate Administrator; see Student Grievance Coordinator for guidance).

Graduate/Undergraduate admission and readmission eligibility (reviewed by the Office of Admissions).

Financial Aid eligibility (reviewed by the Office of Financial Aid).

Grievances against HSU auxiliary personnel (HSU Auxiliary organizations have separate procedures for filing grievances against auxiliary personnel).

Grievances against Public Safety personnel (Complaints filed against Public Safety personnel must adhere to state mandated guidelines. These guidelines are available from the Office of Public Safety).

*No one may seek to establish university policy through the grievance process.*

## GRIEVANCE PROCESS

The student must initiate the grievance process within twenty (20) instructional days of the first semester following the semester in which the alleged incident occurred.

*Wherever a time limit is provided by this document, the participants at that level may request from the Tribunal Chair(s) or appropriate administrator an extension of the time period due to serious and compelling reasons. The participants should submit requests for time extensions in writing to the Student Grievance Coordinator. Requests submitted during Level I of the process will be forwarded to the appropriate administrator; requests submitted during Level II-Level IV of the process will be forwarded to the appropriate Tribunal Chair(s) or Investigating Administrator in cases of discrimination. The Coordinator will inform in writing all parties involved at the appropriate level of the time extension. It is understood that the purpose of this procedure is to resolve grievances promptly and that extensions shall be sought only for good cause.*

### GRIEVANCE PROCEDURE

*The student or respondent may choose to have another person, who must be a member of the campus community (faculty, staff, student), present during consultation with concerned parties. The role of that individual is to observe and consult with the student or employee.*

#### LEVEL I:

It is the responsibility of the appropriate supervisor(s) to make a good faith effort to resolve a dispute at this level of the procedure. This may include bringing the parties together for discussion for purposes of reaching agreement.

#### **STEP ONE:**

The person at the first level of supervision is consulted. (For example: If the conflict is with an instructor, the department chair is the first level supervisor; if the conflict is with the department chair, the college dean is the first level supervisor; if the conflict is with a dean, the Provost is the first level supervisor.)

The first level supervisor shall inform in writing (please see attached form), within three (3) instructional days, the employee(s)/department(s) named that Step One of the grievance process has commenced.

If consultation at Step One does not resolve the dispute within ten (10) instructional days from the day of consultation in Step One, the student then proceeds to step Two. The student must proceed to step Two of the procedure within three (3) instructional days of the conclusion of step One.

The student, supervisor, and employee(s)/department(s) named shall sign an agreement as to whether or not resolution was reached. The supervisor shall forward this document to the next level supervisor and Student Grievance Coordinator.

**STEP TWO:** The student consults the next level supervisor. This supervisor shall confirm with the student, employee(s)/department(s) named in the grievance, and the first level supervisor, in writing, within ten (10) instructional days following consultation whether or not resolution was reached. A copy of this document shall be forwarded to the Student Grievance Coordinator.

If the dispute pertaining to the grievant (student) and faculty/staff/administrator is not resolved to the grievant's satisfaction through Level I, the grievant may proceed with Level II. The student must initiate the Level II process within ten (10) instructional days of the date of receipt by the grievant of the appropriate deans' or administrator's response in Step Two.

### **LEVEL II:**

The student must file a written grievance with the Student Grievance Coordinator. The written grievance must specifically include:

1. a description of the steps taken at Level I toward resolution that proved unsuccessful and the written statement of the dean or other administrator prepared in Level I, Step 2, of the grievance process;
2. a specific, detailed description of the grounds of the grievance which typically includes names of persons involved, witnesses, dates, places, times, and supporting documents necessary for complete understanding;
3. a concise statement of the specific remedy being sought;
4. signature of the grievant; and
5. date signed by grievant.

The Student Grievance Coordinator shall review the student's written grievance to ensure that all of the above listed details are included in the student(s) grievance. Within three (3) instructional days of receipt of the grievance, the Student Grievance Coordinator will forward the grievance to the Tribunal Chairs and Affirmative Action Officer to determine to which appropriate tribunal(s) the grievance shall be forwarded. The appropriate Tribunal, or in cases of discrimination/harassment the Affirmative Action Officer, will conduct a preliminary investigation.

### **Preliminary Examination**

The main purpose of a preliminary examination is to determine whether the information submitted by the complainant would constitute a violation of university policy. This policy inquiry assumes that all information submitted by the complainant is true. There are occasions when, even if what the complainant says is true, a violation of university policy will not exist. Only if a policy violation determination is made will it be necessary for the tribunal to conduct a full investigation where issues of fact are addressed, requiring information to be submitted by the respondent.

The Tribunal, or Affirmative Action Officer in cases of discrimination/harassment, shall meet with the

grievant within ten (10) instructional days of receipt of the grievance to determine whether an investigation is warranted.

Criteria used in determining whether an investigation is warranted (all of the following must be met in order for grievance to proceed to formal investigation):

1. The grievant must show how he or she has been adversely affected by the action.
2. The grievant must show that the remedy sought will not result in (1) special favoritism for him or her and (2) prejudice against others.
3. The grievant must produce information which, if uncontradicted, is sufficient to support a violation of university policy, i.e., establish prima facie evidence.
4. The grievant must demonstrate with reasonable certainty that the action constitutes arbitrary, capricious, or unequal application of written campus policies or failure to apply written campus policies/procedures.

The Tribunal or Affirmative Action Officer shall respond to the grievant, in writing, with copy to the named employee(s)/ department(s) and the Student Grievance Coordinator, no later than ten (10) instructional days of the Tribunal/Affirmative Action Officer/grievant meeting, with a notification regarding the status of the grievance. A notification of dismissal of the grievance shall include rationale for the dismissal.

### **LEVEL III**

#### **A. General Provisions:**

In cases where the Tribunal or Affirmative Action Officer determine that further investigation is warranted, a formal investigation of the allegations will take place. In cases of discrimination, the appropriate administrator and Affirmative Action Officer will assign investigative responsibilities to another administrator within the area. (Please see Investigative Responsibilities for Discrimination/Harrassment Issues under the Definitions section of this document for further clarification.) The investigation will be conducted under the precepts that:

1. the burden of proof rests with the complainant.
2. the standard of proof is the preponderance of the evidence.
3. all information gathered and discussed during the investigation is confidential.
4. if a conflict of interest, or possible conflict of interest, arises with any Tribunal member, that person shall not serve in Tribunal capacity for as long as the conflict exists.
5. in cases where the Tribunal consists of a committee, 50% plus one (1) of the voting members shall constitute a quorum.
6. the Tribunal and the parties to the grievance carry with them rights and responsibilities as outlined in Responsibilities and Authority of the Tribunal and Rights and Responsibilities of the Parties to the Grievance under the Definitions section of this document.

## **B. Formal Investigation**

The Student Grievance Coordinator will forward the grievance to the employee(s)/department(s) named in the grievance for response. A copy of the grievance procedure will accompany the grievance.

The named employee(s)/department(s) shall respond to the grievance in writing and submit the response to the Student Grievance Coordinator within ten (10) instructional days of receipt of the grievance. The response shall include:

1. reasons why informal compromise and/or resolution did not occur (if applicable);
2. a written narrative responding to the specific allegations;
3. other pertinent factors supporting the action/decision of the named employee(s)/department(s) which the student submitting the grievance deemed adverse;
4. name of administrator responsible for named employee(s)/department(s) action/decision;
5. signature of named employee(s)/department(s) in response to grievance; and,
6. date signed by employee(s)/department(s).

The Student Grievance Coordinator will forward the written grievance and response to the appropriate tribunal.

## **C. Tribunal Determination**

Following the formal investigation the Tribunal shall render a judgement, including findings of fact, or document a settlement if one is reached.

The Tribunal, or appropriate administrator in cases of discrimination/harassment, shall conclude its investigation and forward results to the appropriate Vice President no later than forty (40) instructional days after the grievance was submitted to the Tribunal or, in cases of discrimination/harassment, the Affirmative Action Officer.

No meeting, hearing, or other deliberation, whether formal or informal, shall be conducted by the tribunal with less than a quorum present. A quorum shall consist of one more than 50 percent or more of the committee. Committee members must be physically present to vote. Only those members who have heard the entire case are eligible to vote on recommendations for remedy.

The Tribunal will write a final report including, when a judgement is rendered, the findings of fact and the Tribunal's recommended action. The Tribunal shall forward its findings of fact and recommended action to the appropriate Vice President.

Within ten (10) working days of receipt of the Tribunal's final report and recommended action, the Vice President shall give a copy of his/her decision and accompanying rationale to the parties of the grievance. The accompanying rationale shall include findings of fact and action to be taken. This material must be received by the parties of the grievance via certified mail or hand delivered with documentation of receipt



obtained.

If the Vice President's final decision is not appealed, in writing, by any parties to the dispute within ten (10) working days of receipt of the Vice President's decision, the decision will be considered final. The Vice President shall forward a copy of the material received by the parties of the grievance to the Student Grievance Coordinator.

#### **LEVEL IV**

##### **Appeal**

***An appeal is NOT a hearing de novo*** (an investigation conducted for a second time on the same information).

Review of the record from which findings and recommendation for remedial action were made by the Tribunal is based on:

1. New information relevant to the grievance that was not considered by the Tribunal. (If it is determined that such information is relevant to the final judgment in the case, the grievance will be remanded to the tribunal.)
2. Allegations that the investigation was not conducted in accordance with appropriate University policy and procedure. (If it is determined that appropriate policy and procedure were not applied, the grievance will remand to the investigating unit only if it is determined by the appropriate Vice President that such violation was material to the judgment reached by the investigating unit.)
3. Allegations that the investigation lacked thoroughness, thus unfairly affecting the judgment of the case. (The complainant or named employee(s)/department(s) has the burden of producing information to the President showing evidence that the final judgment of the investigating unit was adversely affected by the investigation.)
4. Findings of fact by the Tribunal that are "clearly erroneous." (This appeal process presumes that the findings of fact by the investigating unit are correct.)
5. Allegations that the remedial action taken is unreasonable. The appeal will be dismissed unless the complainant can demonstrate that the remedial action is not appropriate.

##### **Appellate Review by the President**

1. All appeals must be presented, in writing, via the Student Grievance Coordinator to the President and must include a summary of what the student or named employee(s)/department(s) believes should be reviewed. The Student Grievance Coordinator shall determine whether the material submitted contains information addressing one or more of the five factors required for an appeal as outlined above in this document. If the material submitted meets the above stated criteria, the Student Grievance Coordinator will forward the appeal to the President for his/her review.

2. **The President shall review the record from which findings and recommendation for remedial action were made by the Tribunal. He/she shall review the record in accordance with the scope of appellate review as defined by this procedure.**

**The President shall have ten (10) working days to determine whether the appeal will be returned for consideration to the appropriate Tribunal via the Vice President.**

1. **If the President determines that the appeal will be returned to the appropriate Tribunal for consideration, the Tribunal shall have ten (10) instructional days of receipt of the appeal to reach a decision and write a report supporting its decision. The final report shall be forwarded to the President.**

**Within ten (10) working days of the President's receipt of the Tribunal's findings, the President shall reach a final decision and forward his/her decision to the Student Grievance Coordinator for distribution to the appropriate parties. The President's decision shall be final.**

2. **If the President determines that the grievance will not be returned for consideration to the appropriate Tribunal, the President shall, within ten (10) working days of receipt of the appeal, forward his/her decision and rationale supporting such decision to the Student Grievance Coordinator for distribution to the appropriate parties. The President's decision shall be final.**

## DEFINITIONS

### Appropriate Administrator

Management Personnel Plan employee responsible for employment unit.

### Categories of Grievances

#### *Academic Issues:*

In matters related to academic regulations, including but not limited to the following areas:

1. evaluating and passing upon grievances of students relating to academic regulations, such as add/drop, assignment of grade, grade change, incompletes, course waiver/substitution.
2. to hear appeals of academic probation, and disqualification.

#### *\*Discrimination/Harassment Issues:*

Unfair treatment or denial of normal privileges to persons because of race, color, religion, national origin, sex, sexual orientation, marital status, pregnancy, age, disability or veteran's status.

This includes such conduct that is directed toward a person in one of the classes cited above and has the purpose or effect of unreasonably interfering with an individual's academic performance or creates an intimidating, hostile, or offensive learning environment.

#### *Non-academic, Non-discrimination Issues:*

Involves rules, regulations and policies not related to grades or academic policies. Also involves conduct by faculty, staff or administrators toward a student considered to be arbitrary and unreasonable and other issues not covered by other established review committees or tribunals.

### Categories of Student Grievance Tribunals with Committee Format

#### *Academic Student Grievance Tribunal*

Committee which deals with grievances regarding academic issues. Committee membership consists of:

Ex-Officio/Chair, Dean of Admissions and Records or Registrar, permanent appointment;

Three (3) voting faculty members, 3-year staggered terms, appointed by the Academic Senate;

Three (3) voting student members (preferably one of the three to be a graduate student), one-year terms, appointed by the Associated Students;

One (1) voting staff member, 3-year term, appointed by the President.

### ***Non-Academic/Non-Discrimination Student Grievance Tribunal***

Committee which deals with grievances regarding non-academic, non-discrimination issues as well as issues of misconduct directed toward a student(s) by faculty, staff, or administrators. Committee membership consists of:

Two (2) voting faculty members, 3-year staggered terms, appointed by the Academic Senate;

Two (2) voting staff members, 3-year staggered terms, appointed by the President;

Two (2) voting students (preferably, one of the two to be a graduate student), one-year terms, appointed by the Associated Students.

Ex-Officio/Chair, Dean of Undergraduate Studies

#### **Executive Session**

Any time during the Tribunal interview process of parties to a grievance or witnesses to the incident, the Tribunal may excuse all parties present that are not members of the Tribunal to convene in closed session.

#### **Instructional Day**

The term "instructional day" shall mean any day during the academic year other than a Saturday, Sunday, academic holiday of a campus as that term is used in Section 42800 of Title 5 of the California Code of Regulations. Summer Session days are not considered instructional days for purposes of this grievance process.

#### **Investigative Responsibilities**

In issues of discrimination/harassment, the appropriate administrator and Affirmative Action Officer will assign investigative responsibilities to another administrator within the particular university unit. Assignments will be made as follows:

Discrimination/harassment grievances against faculty located in academic units will be investigated by a college dean, in consultation with the Affirmative Action Officer, outside of the respondent's college.

Discrimination/harassment grievances against staff or administrators in academic units will be investigated by an administrator, in consultation with the Affirmative Action Officer, within an academic area but outside of the respondent's reporting unit or college.

Discrimination/harassment grievances against staff or administrators in Student Services or Administrative Services units will be investigated by an administrator, in consultation with the Affirmative Action Officer, within the service area but outside of the respondent's reporting unit.

#### **Misconduct**

Improper or unethical behavior (not found in the context of a specific policy/procedure or

arbitrary application of a policy or procedure).

President

The Chief Executive Officer of the University or his/her designee.

Responsibilities and Authority of the Tribunal

*Tribunal Authority*

1. To determine the relevancy of prospective witness testimony submitted by the parties to the grievance. When a determination is made that an interview of a witness obtained by either party is not necessary, the Tribunal shall document the rationale for such decision.

2. To admit evidence only if it is the sort which responsible persons are accustomed to rely on in the conduct of serious affairs; evidence which is repetitious or cumulative may be excluded.

3. To interview any individual it believes has the potential to contribute to the facts of the grievance.

4. To access all documentation it believes has the potential to contribute to the facts of the grievance.

5. When the Tribunal consists of a committee, the Tribunal may proceed to executive session at any time during an interview with a witness.

*Tribunal Responsibilities*

1. To gather sufficient information during fact finding. This process may include gathering written statements from witnesses. If it is determined that a written statement needs clarification it is the responsibility of the Tribunal to call upon the author of the written statement and request an interview.

2. To consult with all appropriate parties regarding issues that arise as a result of the investigation and gather all relevant information from appropriate offices and individuals.

3. To insure that the investigation conforms to the procedures as outlined in this policy.

4. To develop and implement standards and procedures that ensure orderly, fair and impartial investigation and resolution of the grievance.

5. To compile and maintain a complete record of the formal investigation, including, but not limited to: copies of all correspondence, record of meetings, documentation presented by parties to the grievance, summary of testimony of witness interviews.

6. To insure that issues of law regarding discrimination as defined by federal and state statutes or university policy are properly applied to the findings of fact.

## Rights and Responsibilities of the Parties to the Grievance

### *Party Rights*

1. Either party to the grievance may be accompanied by a "support person" during any meetings with the Tribunal. That person must be a member of the campus community or, in situations as defined by union contract, a union representative, and may not be a practicing attorney. A member of the campus community is defined as faculty or staff currently employed or students currently enrolled in the University. Either party may consult with their "support person" during the meeting with the Tribunal; however, the "support person" may not speak for the party.
2. At any point during the investigation process, the grievant may withdraw the grievance or accept an informal resolution.
3. Either party to the grievance has the right to present his/her position in oral and written statements. Parties are not required to appear before the Tribunal.
4. Each party shall have access to all correspondence and documents considered by the Tribunal.

### *Party Responsibilities*

1. Parties to the grievance are responsible for identifying witnesses and providing relevant documentation.
2. The unwillingness of any party to cooperate with the investigation of the Tribunal shall not prevent the Tribunal from proceeding to a conclusion of the investigation and to a decision.

## Student

Any person taking courses at Humboldt State University, either full-time or part-time, including summer session and Extended Education. Any person who is a student or was a student at the time that the alleged event occurred may use this Student Grievance Procedure.

## Student Grievance Coordinator

Campus official assigned by the President to be in charge of the coordination of these procedures and to perform the duties prescribed in these procedures. The primary responsibilities of this position are:

- 1) to document compliance with the procedures and deadlines established in this document, and
- 2) to provide clarification, when necessary, to all concerned parties regarding the Student Grievance Process.

## Terms

The term "campus official" includes any person employed by a campus, performing assigned administrative or professional responsibilities.

The term "may" is used in the permissive sense.

The term "shall" is used in the mandatory sense.

#### **Tribunal**

The appropriate administrator or committee charged with the responsibility to investigate student grievances at the format level and make recommendations for resolution to the appropriate Vice President.

#### **Working Day**

The term "working day" shall mean the hours an employee is scheduled for work on any one calendar day.

Distribution: Deans, Directors, Department Chairs

**NOTIFICATION OF COMPLAINT**

**DATE:**

**TO:**

**FROM:**

**RE:** Student Grievance Initiated by \_\_\_\_\_  
Name of Student

This is to notify that on \_\_\_\_\_ the above-named student initiated the Student Grievance process regarding the allegations listed below:

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